

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X DOCKET NO.:

JOSE SANCHEZ,

Plaintiff,

(ECF CASE)

-against-

COMPLAINT

UNITED STATES OF AMERICA,

Defendant.

Plaintiff Demands Trial by
Jury

X

Plaintiff, complaining of the defendant herein, by and through his attorneys, JAMES GREENBERG, P.C., alleges the following:

NATURE OF THE ACTION

These claims are brought to redress injuries sustained by the plaintiff, JOSE SANCHEZ, as a result of the negligence of the defendant, through its Department of Health and Human Services, at its medical center known as Urban Health Plan, Inc. (hereinafter referred to as “the UHP”), located at 1065 Southern Blvd, Bronx, New York.

JURISDICTION

1. Jurisdiction exists pursuant to the Federal Tort Claims Act, 28 U.S.C. Sections 1346(b) and 2671 through 2680, in that the plaintiff claims injuries caused by the negligence of the UHP, its agents, servants, and/or employees, as further described here-in-below.
2. All jurisdictional prerequisites to suit have been met.
3. On May 20, 2019, the plaintiff filed an SF-95 Claim for Damage, Injury or Death with the office of the U.S. Department of Justice, service of which was made by certified mail,

return receipt requested, within two years after the cause of action accrued.

4. A response was received on July 23, 2019 from the Department of Justice that stated the claim was transferred to the U.S. Department of Health and Human Services for further handling. Thereafter, no further correspondence was received and no further action was taken by the government to adjust the claim.

5. This action is being commenced as a way of redressing the plaintiff's claims in light of the government's inaction during the statutory 6 month period for investigation and resolution afforded it under the applicable Federal statutes.

STATEMENT OF CLAIMS

AS AND FOR A FIRST CLAIM

6. At all times hereinafter mentioned, defendant UNITED STATES OF AMERICA owned, operated, maintained, managed, staffed and controlled the UHP.

7. On October 31, 2017, the plaintiff was a patient at the UHP when he was caused to sustain injuries by virtue of medical personnel administering the prescription drug Lamotrigine instead of Lamisil at an extremely dangerous dosage that carried with it serious risk of death and caused systemic rash and other permanent sequelae.

8. The UHP, its agents, servants and/or employees, were negligent in erroneously administering the incorrect medication to its patient and were otherwise negligent, careless and reckless.

9. The negligence, carelessness and recklessness described hereinabove were the proximate cause of the plaintiff's injuries.

10. That by reason of the foregoing, the plaintiff was injured and damaged, sustained painful and worrisome symptoms that worsened over time, was compelled to undergo additional and further medical treatment and surgery, was incapacitated from his usual and customary activities; suffered extreme mental anguish and physical incapacity, and was otherwise injured and damaged in a sum not to exceed FIVE MILLION DOLLARS (\$5,000,000.).

AS AND FOR A SECOND CLAIM

11. The plaintiff repeats, reiterates and re-alleges the aforementioned statements in paragraphs 7 through 10.

12. The acts of October 31, 2017 represented departures from accepted standards of medical care prevailing in the community in which they occurred and were the proximate cause of the plaintiff's complications, symptoms and sequelae.

13. By virtue of the aforementioned, the defendant, its agents, servants and/or employees committed malpractice.

14. That by reason of the foregoing, the plaintiff was injured and damaged, sustained painful and worrisome symptoms that worsened over time, was compelled to undergo additional and further medical treatment and surgery, was incapacitated from his usual and customary activities; suffered extreme mental anguish and physical incapacity, and was otherwise injured and damaged in a sum not to exceed FIVE MILLION DOLLARS (\$5,000,000.).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment against the Defendant as follows:

A. On the First Claim for negligence, in amounts to be determined at trial,

compensatory damages for past pain and suffering (including but not limited to physical pain and suffering, emotional pain & suffering and inconvenience) in a sum not to exceed FIVE MILLION DOLLARS (\$5,000,000.); costs and reasonable attorney's and expert fees;

B. On the Second Claim for medical malpractice, in amounts to be determined at trial, compensatory damages for past pain and suffering (including but not limited to physical pain and suffering, emotional pain & suffering and inconvenience) in a sum not to exceed FIVE MILLION DOLLARS (\$5,000,000.); costs and reasonable attorney's and expert fees;

C. Such other and further relief as the Court deems necessary and proper on the First Claim.

JURY TRIAL DEMAND

Plaintiffs request a jury trial on all questions properly triable by a jury.

Dated: August 13, 2020
New York, NY

Respectfully submitted,

JAMES GREENBERG, P.C.

s/ filed electronically

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